

BS030116

U.S. Application No. 10/648,621 Examiner CHIN SHUE, Alvin C. Art Unit 3634
Response to Jan 26 2005 Office Action

REMARKS

In response to the Office Action dated January 26, 2005, Assignee respectfully requests reconsideration based on the above claim amendments and the following remarks. Assignee respectfully submits that the claims as presented are in condition for allowance.

The United States Patent and Trademark Office (the "Office") rejected claim 5 under 35 U.S.C. § 112, second paragraph, for antecedent basis. Claim 1 was rejected under 35 U.S.C. § 102 (b) as being anticipated by *Groover*. The Office rejected claims 2, 3, and 7-9 under 35 U.S.C. § 103 (a) as being unpatentable over *Groover* in view of either *Barnes* or *Chen*. Claim 6 was rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Groover* in view of *Barnes*. Claims 1, 4, and 5 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Groover* in view of *Wachtel*. Claims 2, 3, and 7-9 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Groover* and *Wachtel* in view of either *Barnes* or *Chen*. Claim 6 was rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Groover* and *Wachtel* in view of *Barnes*. The Assignee shows, however, that the amended claims are patentably distinguishable over any combination of the cited prior art, and the Assignee thus respectfully submits that the pending claims are ready for allowance.

Rejection of Claim 5 under 35 U.S.C. § 112

The Office rejected claim 5 under 35 U.S.C. § 112, second paragraph, for antecedent basis. Claim 5, however, has been canceled with this amendment, so the rejection is moot.

Rejection of Claim 1 under 35 U.S.C. § 102 (b)

Claim 1 was rejected under 35 U.S.C. § 102 (b) as being anticipated by *Groover*. A claim is anticipated only if each and every element is found in a single prior art reference. See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d (BNA) 1051, 1053 (Fed. Cir. 1987). See also DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2131 (orig. 8th Edition) (hereinafter "M.P.E.P."). As the Assignee

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shows, however, amended claim 1, and thus the dependent claims thereunder, are patentably distinguishable over *Groover*. The reference to *Groover* does not anticipate the claims, so the Assignee respectfully requests that Examiner Chin Shue remove the 35 U.S.C. § 102 (b) rejection of claim 1.

Claim 1 has been amended. Claim 1 now recites features for a groin pad, and these features are not taught or suggested by *Groover*. Claim 1 is reproduced below.

[c01] (Currently Amended) A torso harness, comprising:

a safety belt for wrapping around the waist of a person; and
a single strap for forming a left and a right leg loop, the single strap having a first end secured to the safety belt and a second end secured to the safety belt, the single strap also having a first clasp sliding along the single strap, the single strap for pulling between the legs of the person and up through the groin area, the first clasp securing to the safety belt, the single strap thus forming the left and the right leg loop; and
a groin protector sliding between the left and the right leg loop, the groin protector reducing injury from an impact to the groin area, the groin protector comprising at least one groin pad having a breathable, outer covering and a stuffed inner region, the groin pad having at least one loop through which the single strap inserts, the at least one loop attached to the outer covering by threads and by rivets, the groin pad also including a rigid back plate with at least one integrally molded hinge allowing the rigid back plate, and thus the groin pad, to conform to the curvature of the technician's leg.

Support for these amendments may be found at least at paragraph [0024] of this application. Because *Groover* fails to teach or suggest features for a groin pad, *Groover* cannot anticipate independent claim 1. The Assignee, then, respectfully asks the Office to remove the § 102 rejection and to allow claim 1.

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Rejections of Claims under 35 U.S.C. § 103 (a)

The Office variously rejected the pending claims under 35 U.S.C. § 103 (a) as being unpatentable over various combinations of *Groover*, *Wachtel*, *Barnes*, and *Chen*. If the Office wishes to establish a *prima facie* case of obviousness, three criteria must be met: 1) combining prior art requires "some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill"; 2) there must be a reasonable expectation of success; and 3) all the claimed limitations must be taught or suggested by the prior art. DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2143 (orig. 8th Edition) (hereinafter "M.P.E.P."). As the Assignee shows, the various combinations of various combinations of *Groover*, *Wachtel*, *Barnes*, and *Chen* fail to teach or suggest all the limitations of the independent claims.

Independent claims 1 and 7 are not obvious. Both claims 1 and 7 have been amended to recite features for the groin pad. Neither *Groover*, *Wachtel*, *Barnes*, or *Chen*, whether alone or in combination, teach or suggest such features. One of ordinary skill in the art, then, would not find it obvious to modify the teachings of *Groover*, *Wachtel*, *Barnes*, or *Chen* to obviate the pending claims. Because no combination of *Groover*, *Wachtel*, *Barnes*, or *Chen* teaches or suggests all the claim limitations, the Assignee respectfully requests removal of the various § 103 rejections.

If any issues remain outstanding, the Office is requested to contact the undersigned at (919) 387-6907 or scott@scottzimmerman.com.

Respectfully submitted,



Scott P. Zimmerman
Attorney for the Assignee
Reg. No. 41,390